



RTI : A CHECK ON CORRUPTION AND A SYMBOL OF JUSTICE DELIVERY IN THE MODERN DEMOCRATIC ERA

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ABSTRACT

In our Judicial and justice delivery system, if something has revolutionized and completely changed the perspective of common people towards the ability and capability of Indian Judiciary system to dispense and deliver justice after Public Interest Litigations in the recent decades, then it has to be Right to Information Act and the accessibility and ease of the filing an RTI. Right from revealing India's National Sport to be Hockey, asking for validity of picture of Mahatma Gandhi on Indian currency to questioning use of black and white election symbols on electronic voting machines, Right to Information has emerged as a savior and rather a tool to ensure that justice prevails in the society. The vigilant and leading role played by Right to Information in revealing and bringing into limelight some major scams of all time like Adarsh Housing Society scam, 2G scam, Commonwealth scam, Red Cross Society scam etc. is not unknown to anyone. At extreme local like Village Panchayat, it won't be an exaggeration to state that Right to Information has come up as a weapon to combat exploitative, baseless and corrupt practices prevailing at administrative and other departmental levels. Once the access and awareness regarding the Right to Information successfully reaches till the extreme remote and backward areas of the country, a complete developed nation won't be a mere dream any longer. Thus, the Right to Information Act, 2005, which provides power to any individual of the country to enquire regarding various matters, is one of the highlighting success stories of Indian Judicial and Justice Delivery system in the recent decade. With even better enforcement of the Right to Information Act, 2005 and ensuring the practical reach of the tool to the remotest areas of the country, RTI can emerge as an even bigger beneficiary and boom to our democracy.

INTRODUCTION:

If we perceive things from the point of view of its very inception, it won't be an exaggeration to state that Information plays a significant role from the perspective of an ordinary individual till state diplomats. In fact, Information is something very crucial to the very basic instinct of the society and fall within the category of an inalienable and natural right of every human being. Constitution of India itself provides a very clear and explicit mandate of holding opinion, seeking, receiving, and imparting information and ideas from public authorities as a part of right to freedom of opinion and expression.¹ Even, not strictly from the sense of information being a right of an individual, it becomes very important that general masses possess certain tool in their hands to access information which is within the circumscribing limits of the public authorities of various concerned departments of the respective State and Central Governments. Moreover from the point of view of Government as well, it is of paramount importance that the governmental records, information etc. is offered to be shared to strengthen the very principle of transparency and accountability of the government towards the citizens of the country. This is the reason why the rights of individuals concerning access to information has been recognized in the recent past in the form of Right to Information Act of 2005, which is not less than a big success story in the legal and judicial history of the country, considering the active role it has played to bring practices like corruption to the limelight and public domain in various respective departments. Thus, the present right of obtaining information from public authorities has placed a quick check on the working, functioning and administration of the government.

Understanding Right to Information:

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.² A "public authority" is any authority or body or Institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organizations substantially financed by the Central Government or a State Government also falls within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.³ The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.⁴

The Government of India has enacted "The Right to Information Act 2005" to set out the practical regime of Right to Information (RTI) for citizens to secure access to information under the control of public authorities to promote transpar-

ency and accountability in the working of any public authority. The RTI provides access to the information which is held by or under the control of any public authority and includes the right to inspect work, documents, records, taking notes, extracts or certified copies of documents/records and certified samples of the materials and obtaining information which is also stored in electronic form. RTI application can be made online at rtionline.gov.in.⁵ Right to Information Act prescribes that it is, "An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto."⁶

Constitutional Scope of Right to Information:

As far as the Constitutional ambit and mandate is concerned, there is no denying the fact that The Right to information is a implied right contained in Article 19(1)(a) of the Indian Constitution. Moreover, in the light of numerous judgments, Honorable Supreme Court of India and various High Courts of the Country have ascertained and concluded that Right to Information is also a part of Article 21 of the Indian Constitution. It can't be ignored that right to information is something which is very initial, foundational and institutional element of democracy itself. It has to be appreciated in one go only that every freedom or right comes with certain restrictions as well, to place a check on the possible abuse of any right. Similarly, Right to Information just like other rights and freedoms too come with certain restrictions and checks. In various Supreme Court Judgments at various times, it has been established that Right to Information is within the meaning of Article 19 and 21 of the Indian Constitution. In *Bennette Coleman v. Union of India*⁷, it was held 'that the right to freedom of speech and expression guaranteed by Art. 19(1) (a) included the right to information.' Similarly, in *State of UP v. Raj Narain*⁸, it was discussed that 'it is not in the interest of the public to cover with a veil of secrecy the common routine business, the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.' In *Secretary, Ministry of Information and Broadcasting, Government of India v Cricket Association of Bengal*⁹, 'the Supreme Court held that the right to impart and receive information from electronic media was included in the freedom of speech.' In *S.P. Gupta v. Union of India*¹⁰, 'right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was illustrated.' Similarly, in *People's Union for Civil Liberties v. Union of India*¹¹, 'the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable.'

Right to Information's role in Justice Delivery System:

It is an established fact that Right to Information has played a significant role in the justice delivery system and overall imparting of justice in the common parlance, keeping into consideration various cases and elements which would have not come into the limelight, if there would have been no such powerful tool like Right to Information in practice in the hands of the people. Right from asking the details of electricity bill to the funding allotted by respective departments of the government, there are wide range of practices and activities which falls within

the definition of information and can be obtained within the ascertained limits and subject to the exceptions contained in the Right to Information Act, 2005. It won't be wrong to state that commoners or the normal citizens of the country were dormant and ignorant of various schemes and were unable to resist when their rights were abused or violated. After the enactment and enforcement of the Right to Information act, people can participate in decision making process and it has enabled the citizens of the country to know about the crucial government decisions. The Right to Information act is acting as a tool to empower people by removing unnecessary secrecy surrounding the decision making process of the government. Moreover, the process of filing an RTI is very easy and now it can be even filed on the electronic portal, making the access to obtaining information within the reach of the common masses and making it actually a practical and realistic practice of law. Thus, in general sense, it can be stated that Right to Information Act has played and is continuously playing a crucial and important role in the justice delivery and imparting of justice in the society.

Operational Challenges to Right to Information:

Despite of Right to Information being a powerful tool in the hand of the common masses to combat corruption, there are certain loopholes and operational challenges in the efficient working and functioning of the RTI in actual sense. There has been apprehension that the information sought under the RTI Act would be misused or used to blackmail officials or organizations at various times. But, it must be kept in mind that the situation of blackmailing the officials or organizations will only emerge when the official is placed in a privileged position to maintain secrecy of sensitive information. It is the situation of secrecy coupled with unguided discretion of authority, which creates a situation of blackmailing in favor of official position and not the other way round. It may further be said that the scope of misuse or blackmail will be reduced or minimized to a great extent in a situation of transparency and free access to information. In this way transparency regime is a sure guarantee against chances of misuse or abuse of public office. There are a number of similar aspects, which can be mentioned causing possible operational challenge to the efficient functioning of the Right to Information Act. Building public awareness, promoting an informed civil service, encouraging cultural change within the civil service, developing an efficient and well-organized information management system are some of important facets, which require immediate focus to realize the right to information. As far as creating public awareness is concerned, it is necessary on the part of the government to educate and to aware the public of their right of access to information, especially how they can apply, as part of promoting a culture of openness and responsiveness within government. Thus, if operational challenges are recognized and worked upon in actual and practical sense, Right to information can come out as even powerful tool than now.

Some Landmark Judgments/ Case Studies concerning Right to Information:

There are a number of instances where in Right to Information has been used by some vigilant and egalitarian individuals of the society to curb ongoing corrupt practices. In Adarsh Scam RTI played crucial role in disclosing the links between politicians and military officials. A 31 storey building had permission for only 6 floors which was meant entirely for the welfare of war widows and veterans. Instead, these flats had gone to several politicians, bureaucrats and their relatives.¹² In an interesting RTI, a political activist in 2014 asked the Election Commission of India why election symbols used in electronic voting machines were black and white and not colorful. In the matter of Vaishnavi Kasturi, a visually impaired student was denied a seat in Indian Institute of Management, Bangalore despite her impressive score in the entrance exam. She filed an RTI to know why she was denied the admission. She couldn't get admission to the college but due to her RTI, IIMs had to make their admission criteria public.¹³ In another significant matter an RTI filed by an NGO based in Punjab revealed that funds, which were meant for victims of the Kargil War, were being used by the bureaucrats to buy cars and air-conditioners. The court charged these bureaucrats with fraud and the funds were then transferred into Prime Minister's Relief Fund.¹⁴ Some of the other crucial revelations include the 2G Scam, The Commonwealth Scam, Red Cross Society Scam, Pratibha Patil Land controversy etc. among others.

CONCLUSION:

It can be appreciated by now that Right to Information has emerged as a savior and rather a tool to ensure that justice prevails in the society. At various times Right to Information has ensured that corruption gets eliminated from the society. It won't be wrong to mention here that Right to Information is rightly a check on Corruption and a Symbol of Justice Delivery in the Modern Democratic Era. In fact, Right to Information is an agent of good governance. Right to Information makes administration more accountable to the people, making the overall administration of the state through the hands of Governmental agencies and authorities more transparent. Right to Information makes people aware of administration and gives them an opportunity to take part in decision making process. On the same hand, Right to Information promotes democratic ideology by promoting openness and transparency in the administration. Right to Information reduces the chances of corruption and abuse of authority by public servants. Since the act is prepared for people's interest, hence its success also depends on how they exercise the act. There are some operational challenges which the regime of Right to Information is facing in the present times. Once, these challenges get eliminated, there is no other effective and powerful tool than Right to Information to ensure justice in the society in the ongoing era.

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Notes:

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